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8 IN THE UNITED STATES DISTRICT COURT FOR THE  
9 EASTERN DISTRICT OF CALIFORNIA  
10

11 UNITED STATES OF AMERICA, ) CR No. S 04-205 GEB  
12 )  
Plaintiff, )  
13 )  
v. )  
14 ) [PROPOSED] FINDINGS PURSUANT TO  
FEDERAL RULE OF CRIMINAL  
15 THA BUN HENG, ) PROCEDURE 32 (i) (3) (C)  
16 )  
Defendant. )  
17 \_\_\_\_\_ )

18 **THE COURT HEREBY MAKES THE FOLLOWING FINDINGS:**

19 Pursuant to Rule 32 (i) (3) (C), Federal Rules of Criminal  
20 Procedure, the Court makes the following findings to be appended  
21 to the defendant's presentence report.

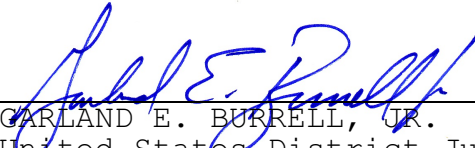
22 1. The Court overrules the defendant's objection to his  
23 Criminal History Category II. The Court finds that his juvenile  
24 adjudication has been appropriately included in the calculation  
25 of his criminal history under the United States Sentencing  
26 Guidelines.

27 2. The Court grants the defendant's request for a variance,  
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1 however, finding that the defendant's juvenile criminal history  
2 is a factor in mitigation appropriately considered under 18  
3 U.S.C. § 3553(a). The Court finds the Offense Conduct to be a  
4 Level 34, but chooses vary from the guidelines relative to the  
5 defendant's criminal history and to sentence at the bottom of the  
6 sentencing range for a Criminal History Category I (151 - 188  
7 months).

8 3. The Court declines to vary from the guidelines based on  
9 the defendant's arguments regarding crack-powder disparity,  
10 sentencing disparity, or sentencing entrapment.

11 Dated: April 18, 2007

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14 GARLAND E. BURRELL, JR.  
United States District Judge  
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